

## **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Joseph Montopoli, Fire Chief/EMC 954-797-1842

**PREPARED BY:** Frank Suriano, Assistant Chief Admin 954-797-1843

**SUBJECT:** Ordinance

**AFFECTED DISTRICT:** All

**ITEM REQUEST:** Schedule for Council Meeting

**TITLE OF AGENDA ITEM:** CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE II TO CHAPTER 18 OF THE TOWN CODE ENTITLED "MOTOR VEHICLE ACCIDENT AND INCIDENT FEES"; AUTHORIZING THE TOWN TO IMPOSE SERVICE FEES OR CHARGES FOR THE DEPLOYMENT OF PUBLIC SAFETY SERVICES RENDERED BY THE TOWN OF DAVIE FOR MOTOR VEHICLE ACCIDENTS AND INCIDENTS; PROVIDING THAT SUCH FEES AND CHARGES SHALL BE ESTABLISHED OR MODIFIED FROM TIME TO TIME BY RESOLUTION OF THE TOWN COUNCIL; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; INCORPORATION INTO THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. [see related item 9.1]

**REPORT IN BRIEF:** The Town is establishing a new Article II to Chapter 18 of the Town Code entitled "Motor Vehicle Accident and Incident Fees"; to impose service fees or charges for the deployment of Public Safety services rendered by the Town of Davie for motor vehicle accidents and incidents.

**PREVIOUS ACTIONS:** This Ordinance was approved at first reading by the Town Council on 9/17/2008 with a 3 to 2 vote, in opposition were Mayor Truex and Councilmember Caletka

**CONCURRENCES:**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve ordinance

**Attachment(s):** Ordinance

ORDINANCE NO.

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AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE II TO CHAPTER 18 OF THE TOWN CODE ENTITLED "MOTOR VEHICLE ACCIDENT AND INCIDENT FEES"; AUTHORIZING THE TOWN TO IMPOSE SERVICE FEES OR CHARGES FOR THE DEPLOYMENT OF PUBLIC SAFETY SERVICES RENDERED BY THE TOWN OF DAVIE FOR MOTOR VEHICLE ACCIDENTS AND INCIDENTS; PROVIDING THAT SUCH FEES AND CHARGES SHALL BE ESTABLISHED OR MODIFIED FROM TIME TO TIME BY RESOLUTION OF THE TOWN COUNCIL; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; INCORPORATION INTO THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, section 166.201, Florida Statutes, provides that a municipality is authorized to establish user charges and user fees by ordinance and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law; and

WHEREAS, the Town of Davie Police and Fire Department's response activity to vehicular accidents and incidents continues to increase each year; new homeland security regulations, such as biological training and equipment, etc., will create increased demands on all operational areas of the Town of Davie Police and Fire Department's; and

WHEREAS, expanded jurisdictional requirements for emergency and non-emergency calls for service have increased demands on all operational areas of the police and fire department's emergency response services as the result of annexation and population increase; and

WHEREAS, several major arterial highways, such as, but not limited to, Interstate I-595, I-75, I-95, Florida Turnpike, and State Road's 7 (Highway 441), 84 (Everglades Highway), 817 (University Drive), 823 (Flamingo Road), and 818 (Griffin Road) run through the Town; and

WHEREAS, the Town of Davie Police and Fire Department's have investigated different methods to maintain a high level of quality of Police and Fire emergency services throughout times of constantly increasing service demands, where maintaining an effective response by the Town of Davie Police and Fire Department's decreases the insurance companies costs by saving lives and minimizing vehicular damage by fire; and .

WHEREAS, raising the real property tax to meet the increase in service demands would not be fair to the property owners, when a majority of the motor vehicle accidents and incidents involve individuals not owning property or paying property taxes in the jurisdiction of the Police and Fire Departments; and the ability of the Town of Davie Police and Fire Department to effectively respond decreases the liability of the insurance companies by saving lives and minimizing vehicular damage by fire; and,

WHEREAS, the Town desires to establish a fee for the purpose of recovering costs associated with the Town providing emergency response services to vehicular crashes; and

WHEREAS, the Town has also experienced increased costs for the maintenance of its services due to increased calls for accident rescue, hazard abatement, cleanup services and traffic control due to vehicular accidents and incidents; and

WHEREAS, the Town Council hereby finds the increased number of motor vehicle accidents and incidents occurring in the Town has caused an increased financial burden and hardship on the Town and its general taxpayers which is unrelated to the routine emergency response services provided to the citizens of Town of Davie; and .

WHEREAS, the Town Council further finds that imposing a motor vehicle accident fee is necessary for the Town to fund an adequate level of emergency response services at the scene of future motor vehicle accidents; and

WHEREAS, the Town Council desires to implement a fair and equitable procedure by which to collect said fees and shall establish a billing system in accordance with State and Federal laws; regulations, and guidelines; and

WHEREAS, maintaining an effective, timely and high quality emergency services response by the police and fire departments decreases costs to those persons involved in vehicular accidents and incidents and their insurance companies costs by saving lives, minimizing personal injury and property damage; and

WHEREAS, the Town Council hereby finds that the fee or charge authorized by this ordinance is reasonably related to a service or benefit provided by the Town during a vehicular accident and incidents; and

WHEREAS, the Town Council of the Town of Davie, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of the Town of Davie.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the Town Council of the Town of Davie.

Section 2. A new Article II is added to Chapter 18 of the Town Code of Ordinances which new article (underlined) is to read as follows:

Sec. 18-10 – 18-19.

Reserved.

## "ARTICLE

### II

#### MOTOR VEHICLE ACCIDENT AND

#### INCIDENT FEES

Sec. 18-20 Motor Vehicle Accident

Fees.

(a) Subject to the provisions of this section, there is hereby established a fee for

emergency services provided by the Town's police and fire departments in response to a motor vehicle accident and incidents. The fee shall be referred to as the "Motor Vehicle Accident and Incident Fee:" The Town of Davie Police and Fire Department's, with prior Town Council approval, shall initiate such fees for the delivery of Police and Fire Department services, personnel, supplies, and equipment to the scene of a motor vehicle accident and incidents. The rate of the service fees shall be that which is the usual, customary and reasonable costs which includes any services, personnel, supplies, and equipment and may fluctuate based on the needs of the accident. Any such fee or charge shall be established or modified from time to time by the Town council by resolution and shall not exceed the actual cost incurred by the Town to provide the emergency services to the motor vehicle accident and incidents.

- (b) Any fee imposed under this section may be charged to the driver(s) responsible for the motor vehicle accident and incidents. In the case of a motor vehicle accident and incidents where a no-fault declaration is made, the fee imposed may be proportionately charged to all drivers involved in the motor vehicle accident. Nothing herein shall be construed to limit or abrogate a person's right to have a court of competent jurisdiction determine which driver(s) was at fault in causing the accident.
- (c) Any fee imposed under this section may be charged to the insurance company of the driver(s) responsible for the motor vehicle accident and incidents. However, in the case of a no-fault declaration, the charge may be sent to all insurance companies of those involved for a determination of payment. Further, in the event the responsible driver(s) did not have insurance, the charge may be sent directly to the responsible driver(s).
- (d) Any fee imposed and provided for under this section shall be due and payable within thirty (30) days of the date of mailing of the invoice charging the said fee. Said fees shall be subject to a late fee of one and one-half (1.5) percent per month, not to exceed eighteen percent (18%) per annum. The Town shall be entitled to recover all costs including, but not limited to, attorney's fees and/or collection service charges incurred in collecting delinquent fees or charges.
- (e) In consultation with the Town Council, the Town Attorney is hereby authorized and empowered to enforce and defend the provisions of this section by any lawful means, and to institute actions for purposes of collecting any and all delinquent fees imposed hereunder. Nothing herein shall be construed to limit the Town's ability to enforce the provisions, fee, and charges imposed hereunder by any lawful means including, but not limited to retaining the services of a duly qualified collection agency.

Section 3. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the Town Council, or parts of prior ordinances and resolutions in conflict are hereby repealed to the extent of the conflict.

Section 4. Incorporation. This Ordinance shall be incorporated into the Code of

Ordinances of the Town.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date. This Ordinance shall take effect starting October 1, 2008 upon adoption by the Town Council of the Town of Davie, Florida.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008

PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008

\_\_\_\_\_  
Attest:

Mayor/Councilmember

\_\_\_\_\_  
Town Clerk

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008